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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,732	01/22/2004	Christopher Surdam	666P001	5620

42754 7590 03/16/2006

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EXAMINER	
RODRIGUEZ, RUTH C	
ART UNIT	**PAPER NUMBER**
3677	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/762,732	SURDAM, CHRISTOPHER	
	Examiner	Art Unit	
	Ruth C. Rodriguez	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The indicated allowability of claims 5-9 is withdrawn in view of the newly discovered reference(s) to Morrison et al. (US 6,789,671 B2). Rejections based on the newly cited reference(s) follow. The Examiner regrets any inconvenience experienced by the Applicant due to prior indication of allowable subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Morrison et al. (US 6,789,671 B2).

A cargo tie-down system comprises in combination a tie down device (22,28) and a housing (10). The tie down device comprises a tie-down strap (22) and a locking mechanism (28) to tension the strap. The housing comprises a sack (18) having a volume sufficient to contain the excess tie-down strap and a generally flat portion

(12,14,16) that contains the locking mechanism (between 12 and 14) and foldable upon the flat portion and securable thereon (when not in use) (Figs. 1-3).

The generally flat portion comprises a pair of spaced slits (between 12 and 16 and between 14 and 16) through which the tie-down strap is threaded (Fig. 1-3).

The generally flat portion has opposite free ends and the opposite free ends can be adapted to be folded onto one another to enclose the sack (when not in use) (Figs. 1-3).

The generally flat portion has opposite free ends and the opposite free ends can be folded onto one another to enclose the locking mechanism (when not in use) (Figs. 1-3).

One of the slits is spaced inwardly of the sack (Figs. 1-3).

Response to Arguments

Applicant's arguments with respect to claims 5-9 have been considered but are moot in view of the new ground(s) of rejection. Especially most of the limitations are considered intended use limitations and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Saenz (US 4,699,401), Petuese (US 4,878,277), Tsai (US 4,937,920), Smith (US 4,961,251), Butler (US 5,009,346), Fields et al. (US 5,351,370), Dalen (US 5,402,557), Hale (US D 382,995), Williams (US 5,947,354), Powers (US 6,138,331), MacNeil (US 6,318,621 B1), LaCoste (SU 6,651,854 B1) and Gorham, Jr. (US D 489,890 S) are cited to show state of the art with respect to a housing having some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr
March 14, 2006

ROBERT J. SANDY
PRIMARY EXAMINER